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3713

PTO/SB/21 (05-03)

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/977,138
	Filing Date	Oct 12, 2001
	First Named Inventor	Odom, Wayne
	Art Unit	3713 ✓
	Examiner Name	C. Marks
Total Number of Pages in This Submission	Attorney Docket Number	ODOM01-01

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
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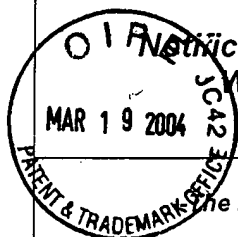
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Date	March 15, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Kellie D. Carr		
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**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application No.

09/977,138

Applicant(s)

ODOM ET AL.

Examiner

C. Marks

Art Unit

3713

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 09 January 2004 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☒ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

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*T. Walberg*  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700

*cmm*  
cmm

Continuation of 9. Other (including any explanation in support of the above items): 1) The status of amendments is incorrect as only amendments after final need be identified in this section. In the present case, there are no such amendments; therefore, nothing should be identified.

2) The issues presented are incorrect as there should only be two issues in the case. Issue #1 and #3 are correct as they identify the rejections present. Issues #2 and #4 are merely arguments relating to Issues #1 and #3 and are just a more specific restatement of such and thus are not separate issues at hand, just restatements of previously identified issues.

3) The grouping of the claims is also incorrect as there are multiple claims shared among the groups. The grouping should match the issues presented and thus reflect the grouping of the rejections with each claim belonging to one group. There should be two groups wherein Group 1 would include claims 2-4, 6-14, 16-20, 22-30, 32-38 and 40-48 and Group 2 would include claims 5, 15, 21, 31 and 39. If so desired by the Applicant, claims within the group can then be recited to not stand or fall together. If the Applicant desires to make this recitation, each of these claims must be argued as separately patentable in the argument section.